

**Serial No.: 10/605,740**

**Amendment Dated: September 10, 2004**

**Reply to Office Action of June 10, 2004**

**R E M A R K S**

The Examiner's comments in the June 10, 2004, Office Action have been carefully considered. Reexamination of the present Application in view of the following remarks and the preceding amendments is respectfully requested.

**Status of Claims**

Claims 1-14 remain in this application. Claims 1-9 and 11-14 have been amended.

**Allowable Subject Matter**

Applicants acknowledge with appreciation the indicated allowability of Claim 12. By the present amendment Claim 12 has been re-written to place it in allowable form. The prompt allowance of Claim 12 is respectfully requested.

**Objection to Drawings**

The Examiner has objected to the drawings under 37 CFR 1.84(p)(5) as not including reference numbers 76 and 102 that were mentioned in the description. Applicant has requested the amendment of Specification Paragraphs [0022] and [0026] to remove use of such reference numbers.

The inclusion of reference numbers 76 and 102 in the Specification reflects an earlier application draft, wherein those features were included in the drawings. Subsequent inventor comment caused the removal of those features from the drawings, and the corresponding amendments to the specification were inadvertently never made. Applicants apologize for any confusion thereby caused, and respectfully request entry of the specification amendments and withdrawal of the drawings objections.

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**Section 112 Claim Rejections**

Claims 1-14 have been rejected under §112, the Examiner identifying a number of issues that are contended to create indefiniteness. Claims 1-9 and 11-14 have been amended to address the various issues raised by the Examiner, and Applicants are appreciative of the efforts made by the Examiner in this regard.

In rejecting Claim 10, the Examiner expressed concern over the use of the term "soft." Paragraph [0011] states in part:

As another aspect of the present invention, these structural features can easily be retrofitted to a hard surface cleaner. Counter-rotating brushes are also used to clean hard (non-carpeted) surfaces, and frequently employ a gravity-fed cleaning fluid applicator that directs the fluid to the rotating brushes. Soft (carpeted) floors require the application of significantly more cleaning fluid, which is provided by the addition of a fluid pump and a spray manifold assembly. Locating the application spray nozzles forward of the counter-rotating brushes enables the saturation of the carpeted surface prior to the agitation thereof by the rotating brushes.

(Emphasis added)

Such use of the terms "soft" and "hard" are considered by Applicants to be consistent with usage in this industry.

Applicants consider Claims 1-14 to now particularly point out and distinctly claim the subject matter viewed by Applicants as their invention. Applicants respectfully request the withdrawal of the §112 claim rejections.

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**Section 102 Rejections Analysis**

A Section 102 analysis begins with the often-repeated standard:

Anticipation under 35 U.S.C. Section 102(e) requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegall Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)

In re Robertson, 49 U.S.P.Q.2d 1949, 1950 (Fed. Cir. 1999). The Examiner has made a series of claim(s) rejections under §102 and each such rejection must comply with the required express or inherent description of each claim element.

Claim 7 is rejected as unpatentable as anticipated by **Dolan et al. (U.S. Patent No. 3,550,181)**. One of the Claim 7 elements is a "vacuum shoe," and the Examiner identifies disclosure of such a structure in Dolan et al. The term "vacuum shoe" is known to the art (see, for example, the Fellhauer et al. reference cited by the Examiner and discussed below). The cleaner of Dolan et al. is for **hard floors**, and, not surprisingly, teaches the use of a squeegee unit 36 to collect the cleaning liquid. A squeegee is not a vacuum shoe, the former being very inefficient in extracting water from soft (carpeted) surfaces. Withdrawal of Dolan et al. as a basis for rejecting Claim 7 under §102 is respectfully requested.

Claim 7 has also been rejected as unpatentable under §102 as anticipated by **Fellhauer et al. (U.S. Patent No. 5,465,456)**. Claim 7 is written in a "Jepson" format (37 CFR 1.75(e)). Section 608.01(m) of the Manual of Patent Examining Procedure

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("MPEP") provides that claims written in such a manner are to be considered a combination claim.

The preamble of this form of claim is considered to positively and clearly include all the elements or steps recited therein as a part of the claimed combination.

Fellhauer discloses a small, walk-behind carpet extractor. Claim 7 recites "an operator driven ridable carpet cleaning machine". A significant portion of Applicants specification discusses the monumental differences between a ridable cleaner and one requiring an operator to "walk-behind" the unit. Withdrawal of Fellhauer et al. as a basis for rejecting Claim 7 under §102 is respectfully requested.

Claims 7-9 stand rejected as unpatentable under §102 as anticipated by **Romaniuk (U.S. Patent No. 2,973,544)**. The Romaniuk disclosure describes a street sweeper having a front-mounted vacuum attachment having ground engaging wheels 35. Claims 7-9 clearly recite a carpet cleaning machine - a task for which the Romaniuk contains no disclosure, and in fact for which it is completely ill suited. Withdrawal of Romaniuk as a basis for rejecting Claims 7-9 under §102 is respectfully requested.

Claim 10 has been rejected as unpatentable under §102 as anticipated by **Boomgaarden (U.S. Patent No. 5,901,407)**. The Boomgaarden ridable scrubber features a squeegee 30 to assist in retrieving spent cleaning solution. This is not surprising since the Boomgaarden scrubber is used for cleaning hard surfaces, and not for carpeted surfaces. As mentioned previously, squeegees are not useful for extracting liquids from carpeted surfaces, and are not the equivalent of the "at least one surface engagable vacuum shoe" structure of Claim 10.

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Withdrawal of Boomgaarden as a basis for rejecting Claim 10 under §102 is respectfully requested.

### **Section 103 Rejections Analysis**

#### **Claims 1-3; Jepson Preamble in view of Hahnl**

Claims 1-3 stand rejected under §103 as unpatentable over "Admitted State of Prior Art" (as stated in the Jepson Preamble) in view of **Hahnl (U.S. Published Application No. 2002/0014259)**. The Examiner relies upon Hahnl as showing a pair of counter-rotating brushes attached to a raisable platform having a liquid spray nozzle attached forward of the brushes.

Section 2129(III) MPEP addresses prior art admissions in the context of Jepson claims. The Section notes that drafting in the Jepson format creates an "implied admission" that the subject matter of the preamble is the prior art work of another. However, the Section also observes that this *implication* may be overcome in certain situations.

One such situation listed in §2129(III) is where the preamble of the Jepson claim describes applicant's own work. Applicants have presented an operator driven ridable carpet-cleaning machine. Nowhere have Applicants suggested that such a machine has ever existed - only that an existing hard surface ridable machine could be modified (in accordance with Applicants' invention) to obtain Applicants' soft surface ridable cleaner. The Examiner has likewise been unable to cite a ridable soft surface cleaner. Under such circumstances it is respectfully submitted to be improper to utilize Applicants' Jepson preamble as the prior art of another.

Turning briefly to Hahnl, there is no suggestion to bring the counter-rotating cylindrical brushes to a location between

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the front and rear axles as is recited by Claim 1. In fact, to do so would result in the destruction or impairment of its intended purpose. As noted in Paragraph [0018],

[I]t has been found to be advantageous to provide the solvent sprayer and brush unit at a distance from the water spray and sludge collection unit...

If not entirely off-set from one-another for two-pass operation, as is described in Paragraph [0018] as "preferable."

Applicants respectfully submit that the Examiner has not produced a prima facie case of obviousness and request the withdrawal of the §103 rejections based upon the Jepson preamble and Hahn.

**Claims 1-6; Fellhauer et al. in view of Kasper**

The Examiner has rejected Claims 1-6 under §103 as unpatentable over Fellhauer et al. in view of **Kasper (U.S. Patent No. 3,702,488)**. The Fellhauer et al. reference has been previously discussed as describing a walk-behind carpet extractor. Kasper discloses a ridable cleaner for hard surface floors. Applicants describe a ridable *carpet-cleaning* machine, and such limitation is found in each of Claims 1-6.

Section 2111.02 MPEP discusses the effect of language contained in a claim preamble and notes

Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation.

The MPEP then cites Corning Glass Works v. Sumitomo Elec. U.S.A., Inc.,

The determination of whether preamble recitations are structural limitations [or mere statements of purpose or use] can be resolved only on review of the entirety of the application "to gain an

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understanding of what the inventors actually invented and intended to encompass by the claim."

As has been noted previously, Applicants have disclosed a rideable cleaner for soft (carpeted) surfaces. The Applicants are unaware of any such rideable soft-surface cleaner prior to their invention, and the Examiner has not located any such disclosure.

Thus in the case of the Claims 1-6 rejections, the teachings of the prior art - against which patentability is measured, is not counter-rotating cylindrical brushes and liquid spray nozzles broadly, rather such structures as are suitable for use with a rideable soft-surface cleaner. (See §2111.02 MPEP for citation and discussion of In re Stencel, 828 F.2d 751 (Fed. Cir. 1987)).

The combination of Fellhauer et al. and Kasper do not suggest or make obvious the invention as set forth in Claims 1-6 and Applicants respectfully request the withdrawal of these §103 rejections.

**Claims 11 and 13-14; Boomgaarden in view of Romaniuk**

Claims 11 and 13-14 stand rejected under §103 as unpatentable over Boomgaarden as applied previously to Claim 10, and further in view of Romaniuk. The Examiner suggests it would have been obvious to provide a plurality of vacuum shoes in Boomgaarden.

As previously discussed, the Boomgaarden device is a hard-surface cleaner - hence the use of a squeegee. The vacuum unit in Boomgaarden is to remove the liquid as it is being collected by the squeegee. Based upon the greater efficiency of the squeegee over vacuum shoes for hard surfaces, there can be no

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motivation to replace the squeegee with vacuum shoes. In fact, removal of such squeegee would impair or destroy the ability of the Boomgaarden device to function as a hard surface cleaner. There can be no motivation within Boomgaarden to do any such act.

The Romaniuk cleaner is also for hard surfaces, hence the use of flexible ground sealing means 36 (Col. 2, line 56) to form an elongate slot to enhance the vacuum efficiency as the truck moves down a street. The "slot" formed by the Romaniuk vacuum system is of no value when attempting to extract liquids from a carpeted surface. Additionally, the flexible sealing means used to create the "slot" are not useful for soft surfaces. To prevent breaks in the suction a downward force would be required if using such flexible sealing means, and that would create a dragging force, slowing the movement of the cleaner across the carpeted surface.

Since the Boomgaarden and Romaniuk disclose cleaners for hard surfaces, their collection means are ill-suited for use on soft/carpeted surfaces. Not only does the resultant Examiner's assembly of parts remain different from the structures defined by Claims 11 and 13-14, there is also no motivation in either reference to initiate such part-swapping modifications. Applicants respectfully request the withdrawal of the §103 rejections of Claims 11 and 13-14.

**Conclusion**

As now amended, and in view of the foregoing remarks, Applicants respectfully submit that Claims 1-14, and each of them, are now allowable, and prompt notification of same is earnestly solicited.

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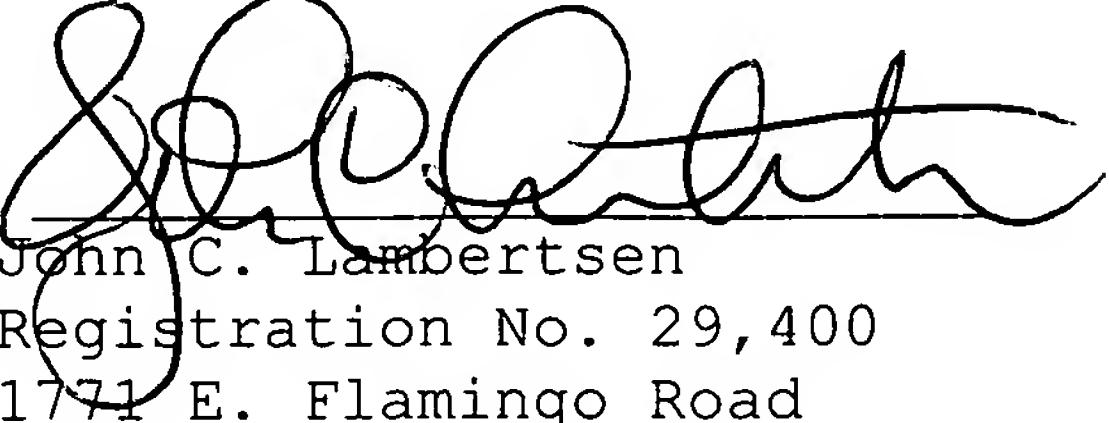
If there are any questions or other issues that might be resolvable by a telephone call with Applicant's counsel, the Office is invited to place same at the number indicated below.

Respectfully submitted,

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